
DIGEST

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Ritchie

HB No. 451

Abstract: Defines "capper", "steerer", or "runner", "funeral goods and services", and "solicitation". Authorizes the imposition of sanctions or fines for prohibited acts. Prohibits certain acts of solicitation by funeral home directors.

Present law defines "capper" or "steerer" as any business agent or other person who attempts to deceive, delude, trick, cheat, swindle, defraud, or mislead.

Proposed law defines "capper", "steerer", "or runner" as a person who, for monetary benefits or other considerations, procures or attempts to procure business at the direction of, request of, or in cooperation with a licensee by means of deceit, trick, fraud, or misleading statements.

Present law defines "funeral goods and services" as goods which are sold or offered for sale directly to the public for use in connection with funeral services and any services which may be used to care for and prepare deceased human remains for burial, cremation, or other final disposition and to arrange, supervise, or conduct the funeral ceremony or the final disposition of deceased human bodies, including, but not limited to, funeral merchandise.

Proposed law defines "funeral goods and services" as any one or more of the following goods or services:

- (1) Goods which are sold or offered for sale directly to the public for use in connection with funeral services.
- (2) Any services which may be used to care for or prepare deceased human remains for burial, cremation, or other final disposition.
- (3) To arrange, supervise, or conduct the funeral ceremony or the final disposition of deceased human bodies.
- (4) Funeral merchandise.

Present law defines "solicitation" as the act or practice of approaching someone with a request or plea, or to urge someone toward a particular cause as it may pertain to the care, custody, or disposition of a dead human body.

Proposed law defines "solicitation" as the act or practice of any licensee or any agent, employee,

or person acting on their behalf, of approaching a person or a group of persons making a request or plea, or to urge someone toward a particular cause as it may pertain to the care, custody, or disposition of a dead human body.

Present law authorizes the La. State Board of Embalmers and Funeral Directors to refuse to grant, refuse to renew, or to suspend or revoke any license when the applicant or licensee is found guilty of certain prohibited acts or omissions.

Proposed law authorizes the board to also impose a sanction or fine when the applicant or licensee is found guilty of certain prohibited acts or omissions.

Present law prohibits paying, giving, or offering, directly or indirectly, orally or in writing, any money, credit, discount, gratuity, or other thing of value as an inducement for the business of a prospective customer; provided that the prohibition shall not be in any way construed as prohibiting the execution or servicing by the parties thereto of any funeral service contract of the type recognized or required by any provisions of present law.

Proposed law prohibits paying, giving, or offering, directly or indirectly, orally or in writing, any money, credit, discount, gratuity, or other thing of value to a third party as an inducement for the business of a prospective customer, provided that this prohibition shall not be construed to prohibit any of the following:

- (1) The execution or servicing by the parties thereto of any funeral service contract or preneed funeral contract recognized by any provisions of present law.
- (2) A licensee from providing promotional pricing that is disclosed on its general price list, including the dollar amount or method of determining the dollar amount of any discount, directly to a consumer.
- (3) A licensee from providing discounted or free funeral goods and services for infants or a member of an indigent family.

Present law prohibits solicitation of business, either in person or through agents commonly known as "cappers" or "steerers".

Proposed law prohibits solicitation which is intimidating, overreaching, fraudulent, or misleading, that uses undue influence, or that takes advantage of a person's lack of knowledge or emotional vulnerability, or is engaging any of the following:

- (1) At-need solicitation of sales of funeral goods and services or funeral or disposition arrangements.
- (2) Soliciting, accepting, or paying consideration for recommending a provider of funeral goods and services or disposition arrangements or using the services of cappers, steerers, or runners.

- (3) Contacting persons receiving care in hospitals, rest homes, nursing homes, hospices, or similar institutions for the purpose of soliciting preneed funeral contracts or the sale of funeral goods and services or making funeral or disposition arrangements without first having been specifically requested by that person.
- (4) Contacting a person suffering ill health or the relatives, caregivers, acquaintances, health care providers, or persons having the right to control the disposition of the remains of an individual whose death is impending or whose death has recently occurred for the purposes of soliciting preneed funeral contracts or the sale of funeral goods and services or making funeral or disposition arrangements for that individual without first having been specifically requested by that person seeking information about funeral goods or services.

Proposed law shall not apply to communications between persons related by blood, adoption, or marriage.

Proposed law shall not be construed to restrict the rights of a person to advertise or use direct mail or other communications in a manner directed to members of groups, associations, organizations, or the general public, or to contact persons responding to such communications or who initiate discussion of the funeral goods and services being offered.

(Amends R.S. 37:831(11), (40), and (72) and 846(A)(intro. para.), (2), and (3))